HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 770 of 2003 (MS)

Sanjeev Rawat son of Sri J.S. Rawat
Resident of Rawat Bhawan, Bhairav Chawk,
Uttarkashi …… Petitioner

Versus

1. Principal Government Post Graduate College, Uttarkashi
2. H.N.B. Garhwal University, Srinagar, Garhwal ……. Respondents

Sri Manoj Tewari, Advocate for the petitioner.
Sri J.P. Joshi, Advocate and Sri N.C.A. Gupta, Standing Counsel for the Respondents.

Dated: Sept. 18, 2003

Hon'ble Rajesh Tandon J.

By the present writ petition the petitioner has sought a writ of mandamus commanding the Respondent No.1 to grant admission to the Petitioner as regular student in M.A. Hindi course in the current academic session pursuant to this application submitted on 11.8.2003.

Brief facts giving rise to the writ petition are that the petitioner has qualified his B.Sc. degree from respondent no.1 college and took admission in Diploma course of Medical Transcription in Shiv Om Institute of Medical Transcription Dehradun and thereafter took admission of M.Sc. Botany in Govt. P.G. College, Uttarkashi in the academic session 2002-2003 and appeared in the examination in April-May 2003 and due to poor performance the petitioner was declared failed. The Government P.G. College, Uttarkashi is affiliated to Hemwati Nandan Bahuguna Garhwal University Srinagar for the

conducting examination. The University has been constituted under the provisions of State Universities Act, 1973.

The petitioner has appeared in the M.Sc. Botany and after having failed, the petitioner is desirous of getting admission in M.A. Hindi.

The grievance of the petitioner in paragraph 10 of his writ petition is that application submitted by the petitioner for admission in M.A. Hindi has not been considered at all, hence the present writ petition has been filed for seeking writ of mandamus under Article 226 of the Constitution of India.

In paragraph 12 of the counter affidavit filed on behalf of respondent no.1 Govt. P.G. College, Uttarkashi it has been stated to the following effect:

"That in reply to contents of paragraphs no.15 and 16 of the writ petition it is submitted that the petitioner, owing to the reason stated above is not entitled to get admission in M.A. Hindi as a regular student. Moreover, the petitioner has filled up the form to appear in back paper examination in M.Sc. Botany in the subject in which he was declared failed."

The petitioner's counsel has argued that although the petitioner preferred re-examination in M.Sc. Botany but it is not possible for him to continue study in M.Sc. Botany due to poor academic performance of his own. The learned counsel for the petitioner has stated that petitioner may be treated as having passed B.Sc. Examination. It is a fact that in a academic year two courses cannot be prosecuted by the petitioner and, therefore, the petitioner has made a statement that in case he is given admission in M.A. Hindi course, he will give undertaking that he will not prosecute his further study in M.Sc. Botany.

Respondent no.1 has filed admission rules along with his counter affidavit. Rule 13 and 17 of the same are quted below:

13– अनुतीर्ण होने वाले विद्यार्थियो को किसी कक्षा एवं संकाय में प्रवेश नही दिया जायेगा इस विश्वविद्यालय से अनुतीर्ण छात्र भूतपूर्व/व्यक्तिगत छात्र के रूप में परीक्षा मे सम्मिलित हो सकते है। स्नातक स्तर पर प्रथम वर्ष के छात्र को अनुतीर्ण होने अथवा चिकित्सा के आधार पर व अन्य वैध कारण पर केवल एक वार संकाय बदल कर प्रवेश दिया जा सकता है। प्रवेश लेने से पूर्व प्रत्येक छात्र को सीनान्तरण प्रमाण पत्र/प्रर्वजन प्रमाण पत्र एवं चरित्र प्रमाण पत्र प्रस्तुत करना अनिवार्य होगा।

17. संकायाध्यक्ष/ प्राचार्य द्वारा प्रवेश प्राप्त छात्रों की सूची विश्विद्यालय को भेजीनी आवश्यक है प्रवेश प्राप्त छात्रों की सूची विश्विद्यालय को प्रेषित करने के पश्चात यदि कोई प्रवेश दिया जाता है तो यह अवैध होगा।

As will appear from Rules 13 and 17 that students will not be allowed to change the subject. According to the petitioner's counsel it is not a case of change of subject but it is a case where after passing B.Sc. examination, the petitioner is not intending to continue his study in M.Sc. degree and intended to take admission in M.A. Hindi. According to the case of the petitioner he is not changing the subject, as he has not taken admission in M.A. earlier and for the first time he is seeking admission in M.A. Hindi, therefore, the petitioner may be treated as having passed only B.Sc. degree. Coming to the grievance of the petitioner suffice it to say that there is nothing on the record to show that the petitioner has ever approached the Principal, Government P.G. College, Uttarkashi or any competent authority of the college and the College has refused the admission to the petitioner. The writ petition is, therefore, premature.

The petitioner is now seeking admission in M.A. Hindi and therefore, according to the petitioner Rules 13 and 17 of the Prospectus have no application in the present case. Without expressing any opinion it will be open for the petitioner to demonstrate before the respondents that it will not amount to change

of subject as he is simply seeking admission in M.A. Hindi after graduation from science subject.

However, the petitioner will be at liberty to approach the college authorities and college authorities shall consider the case of the petitioner for admission in M.A. Hindi according to the Rules and Regulations of the University. However, if the College authorities are willing to give admission to the petitioner in M.A. Hindi, it will not be treated as a precedent for other students.

With the aforesaid observations the writ petition is disposed of. No order as to the costs.

(Rajesh Tandon, J.)

18.09.2003
*Dhyani